

Consideration of preliminary adoption of amendment to 312 IAC 5-3 governing boat races, water ski events and organized recreational activities occurring on public waters of the state; Administrative Cause No. 12-137L

Recommended for preliminary adoption are amendments that would make adjustments to conform the rule to current practice. In addition to traditional boating activities, the amendments would govern explicitly other recreational activities that may affect personal safety, protection of property, and navigation on public waters.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #12-

DIGEST

Amends 312 IAC 5-3 governing boat races, water ski events and organized recreational activities occurring on public waters of the state.

312 IAC 5-3-1; 312 IAC 5-3-2; 312 IAC 5-3-3; 312 IAC 5-3-4

Rule 3. Boat Races, Water Ski Events, and Organized Recreational Activities

312 IAC 5-3-1 Boat races, water ski events, and ~~major~~ organized ~~boating~~ recreational activities; applicability

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-15

Sec. 1. (a) This rule governs the conduct of any boat race, water ski event, and ~~major~~ organized ~~boating~~ **recreational** activity.

(b) No person shall sponsor, conduct, participate, or compete in a boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity upon the public waters of this state, including ice, unless a license for a boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity is issued by the division under this rule.

(c) A license application must be made on a department form and delivered to the central office for the division. The application shall include a description of the proposed boat race, ~~or~~ water ski event **or organized recreational activity** course, capable of being marked and fixed. An application that is not filed with the division at least sixty (60) days before the proposed race or event will be denied unless the requirements of this rule are satisfied pertaining to permit review by the division and notice to interested persons. (*Natural Resources Commission; 312 IAC 5-3-1;*

filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3321, eff Oct 1, 2003; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA)

312 IAC 5-3-2 Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or organized recreational activity

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-15

Sec. 2. (a) Upon the receipt of a license application, a conservation officer shall inspect the areas that would be affected by the event.

(b) The conservation officer shall consider the following factors in reviewing the permit application:

- (1) The density of water traffic on the public water.
- (2) The physical characteristics of the public water.
- (3) The proximity of the proposed event to land owned by a person other than the license applicant.
- (4) The kinds of boats that would be involved **or affected**.
- (5) Any other factors that are appropriate to at least one (1) of the following:
 - (A) Preventing the existence of unusual conditions or hazards.
 - (B) Promoting scientific fish, wildlife, or botanical resource management.
 - (C) Assisting in the protection of users.

(c) A written report of the inspection shall be submitted by the conservation officer to the division director, together with recommendations for approval, disapproval, or the placement of conditions on the license. *(Natural Resources Commission; 312IAC 5-3-2; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA)*

312 IAC 5-3-3 Public notice before the issuance of a license for a boat race, water ski event, or organized recreational activity

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-21.5; IC 14-15

Sec. 3. (a) This section establishes notification requirements before a license is issued under this rule. Subsequent to the issuance of a license by the division, IC 4-21.5 applies.

(b) At least thirty (30) days before the division can issue a license, an applicant shall provide, at its expense, notice of the license application as follows:

- (1) Once in one (1) newspaper of general circulation in the county or counties where the boat race, water ski event, or major organized boating activity will occur.
- (2) In person, by certified mail with return receipt requested, or by first class mail with proof of mailing, to the following:
 - (A) Any person who provides the division with a written request to be notified if a boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity permit is requested. A request under this clause is valid during the year in which it is received for the waterway named in the request.
 - (B) If the affected area for the boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity is located on a public freshwater lake or Lake Michigan, to at least

one (1) of the owners of each parcel of property reasonably known to be located within two hundred (200) feet of the course.

(C) If the affected area for the boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity is located within a municipality, to the municipality.

(c) A notice under this section shall do the following:

(1) Provide the name and address of the applicant.

(2) Specify that the license is sought under this rule and whether the license will authorize a boat race, water ski event, or ~~major~~ organized ~~boating~~ **recreational** activity.

(3) Describe or illustrate the area affected by the event and when the event will occur.

(4) Include an explanation of the options available to the persons served. These options are as follows:

(A) File a petition with the central office of the division requesting an informal hearing that is signed by at least twenty-five (25) individuals who are at least eighteen (18) years old and who reside in the county where the event will occur. A hearing under this clause is governed by 312 IAC 2-3.

(B) Request the division to notify the person in writing when an initial determination is made to issue or deny the license. Following the receipt of notice under this clause, a person may request administrative review of the determination under 312 IAC 3-1.

(Natural Resources Commission; 312 IAC 5-3-3; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA)

312 IAC 5-3-4 General conditions on a license issued for a boat race, water ski event or organized recreational activity

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-15

Sec. 4. (a) A license issued under this rule is subject to immediate suspension by a conservation officer if severe weather or other hazardous conditions threaten public safety.

(b) A license issued under this rule terminates on the earlier of the following:

(1) The termination date set forth in the license.

(2) One hundred eighty (180) days after issuance of the license.

(Natural Resources Commission; 312 IAC 5-3-4; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2370, eff Jan 1, 2002; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA)